AN COIMISIÚIN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

216TACD2025

Between

[redacted]

Appellant

and

REVENUE COMMISSIONERS

Respondent

Determination

Contents

Introduction

1. This is an appeal to the Tax Appeals Commission ("the Commission") by [redacted] ("the Appellant") against amended assessments to corporation tax ("CT") raised by the Revenue Commissioners ("the Respondent") for the years 2017 – 2022 inclusive. The total amount assessed was €420,521.75, being made up of corporation tax of €382,292.50 and surcharge for failure to file CT returns on time of €38,229.25.

2. The Appellant owned a hotel [redacted] ("the hotel"). The amended assessments were raised by the Respondent based on estimated rental income it believed was received by the Appellant. The Appellant contended that it had a nil liability for the years in question, on the basis that interest payments on loans taken out by it to acquire the hotel were in excess of income received.

Background

3. The Appellant is one of a number of companies [redacted] It is 100% owned by its parent company [redacted] ("the parent company"), [redacted]

4. On 31 May 2024, the Respondent issued amended assessments to CT as follows:

Year	CT Assessment €	Surcharge €	Total assessed liability €
2017	40,950.00	4,095.00	45,045.00
2018	51,337.00	5,133.70	56,470.70
2019	51,665.50	5,166.55	56,832.05
2020	51,993.50	5,199.35	57,192.85
2021	52,321.50	5,232.15	57,553.65
2022	134,025.00	13,402.50	147,427.50

Total	**382,292.50**	**38,229.25**	**420,521.75**

5. On 25 June 2024, the Appellant appealed against the amended assessments to the Commission. In its Statement of Case, the Appellant contended that the Respondent had incorrectly disallowed expenses. It also stated that its financial statements "*may not present a true and fair view of its financial performance and position*." Despite a number of requests by the Commission, the Appellant did not submit an Outline of Arguments (written submissions) supporting its appeal[1].

6. The hearing of the appeal was listed for 27 March 2025. On 20 March 2025, the Commission became aware that the Appellant had a new accountant who was carrying out 'reconciliation' work on the Appellant's accounts. On 25 March 2025, the Commission became aware that the Appellant had retained a new solicitor to represent it in the appeal.

7. On 27 March 2025, both parties attended the Commission, represented by Senior Counsel. Senior Counsel for the Appellant requested an adjournment of the hearing, to allow the Appellant's new accountant complete the reconciliation of the Appellant's accounts. Senior Counsel for the Respondent objected to an adjournment. The Commissioner agreed to grant one adjournment of the hearing and directed the Appellant to provide all documentation upon which it wished to rely to the Respondent by no later than 25 April 2025, and to the Commission by no later than 7 May 2025. The hearing was adjourned until 19 May 2025.

8. On 14 May 2025, the Appellant's solicitor provided the Commission with the Book of Documents that it stated the Appellant intended to rely upon at the hearing. On 16 May 2025, the Appellant's solicitor provided a supplemental book of documents to the Respondent and the Commission and apologised for the lateness of the submission.

9. The hearing proceeded on 19 May 2025. The Appellant was represented by new (junior) counsel. Senior Counsel for the Respondent requested the Commissioner to exclude the documents submitted on behalf of the Appellant on 16 May. She also stated that the Respondent was not seeking an adjournment. The Commissioner noted that it was very unsatisfactory that documents had been submitted so late and stated that he would have granted an adjournment if the Respondent had sought one. However, he did not exclude

[1] On 12 December 2024, the Appellant's former agent, in response to a request for an Outline of Arguments, merely stated "*The company incurred a loss during the accounting period, but revenue calculated as the company has a profit and disallowed all of the expenses*."

the Appellant's supplemental book, noting that he had a duty to try to establish the Appellant's correct liability to tax.

10. The hearing did not conclude on 19 May 2025, and a further hearing date was scheduled for 25 June 2025. On the adjourned date, the hearing proceeded with both parties again represented by counsel. Evidence was heard from the final witness and oral submissions were provided by counsel for both parties.

Legislation

11. Section 97 of the Taxes Consolidation Act 1997 as amended ("TCA 1997") states *inter alia* that:

> "*(1) Subject to this Chapter, the amount of the profits or gains arising in any year shall for the purposes of Case V of Schedule D be computed as follows:*
>
> *(a) the amount of any rent shall be taken to be the gross amount of that rent before any deduction for income tax;*
>
> *(b) the amount of the profits or gains arising in any year shall be the aggregate of the surpluses computed in accordance with paragraph (c), reduced by the aggregate of the deficiencies as so computed;*
>
> *(c) the amount of the surplus or deficiency in respect of each rent or in respect of the total receipts from easements shall be computed by making the deductions authorised by subsection (2) from the rent or total receipts from easements, as the case may be, to which the person chargeable becomes entitled in any year.*
>
> *(2) The deductions authorised by this subsection shall be deductions by reference to any or all of the following matters…*
>
> *(e) interest on borrowed money employed in the purchase, improvement or repair of the premises*."

Evidence

[redacted] *– Director of Appellant*

12. The witness stated that he was the director of the Appellant. The Appellant was part of the group of companies under the parent company, which borrowed €8.75 million from [redacted] The parent company lent €2.6 million to the Appellant at 9.5% interest in [redacted] The witness stated that he signed the loan agreement. He was asked why the loan agreement stated that the parties were the parent company and [redacted] and he stated that this was

a mistake. [redacted] was also a company under the parent company. [redacted]

13. The loan from [redacted] was to finance the acquisition of properties, including the Appellant's acquisition of the hotel. The loan was for three years and was then extended for a further one year. In [redacted] a receiver was appointed over the parent company. There was a mortgage held by [redacted] over the hotel in respect of the monies owed by the Appellant. The witness stated that [redacted] gave the money to the parent company, who in turn lent it to the Appellant.

14. In [redacted] the Appellant purchased the hotel. There was a lessee in the hotel, [redacted] which the witness stated was paying rent of €3,500 per week. The witness stated that he wanted €10,000 per week, which was the figure on the original lease, but [redacted] refused to pay this much. He stated that [redacted] stopped paying rent after the Covid-19 pandemic, around May or June 2020. The Appellant brought a winding up petition against [redacted]. He stated that [redacted] did not pay the Appellant any rent between May 2020 and its winding up.

15. In [redacted] 2021, the hotel got a new tenant, [redacted], [redacted] He stated that the new company did not pay the Appellant rent. In [redacted] 2022, there was another new tenant, [redacted] which pays rent of [redacted] per annum. [redacted] The Appellant also entered into a lease (date unclear) with [redacted] for the hotel bar. The Appellant received €3,000 per week.

16. The witness stated that the Appellant did not have a bank account. The Appellant used the bank account of [redacted] a group company. He stated that the rental income went into an account named [redacted], which was used to pay the interest on the loans.

17. Regarding the purchase of the hotel, the witness stated that he paid a deposit to [redacted]. He also referred to a memorandum of understanding between the Appellant and the receiver of the hotel in [redacted] which stated that the Appellant would purchase the hotel.

18. The [redacted] loan was paid off in [redacted] 2022. €4 million was paid to [redacted] in [redacted] 2021, which was by way of a loan from [redacted] to the parent

[2] Document 2.5 of the Appellant's Book of Documents. The Commissioner notes that the document states that the purchaser of the hotel was [redacted].

company. €480,000 of that €4 million constituted an upfront payment of interest. There was also a loan totalling €4.3 million from [redacted] to six companies including the Appellant, [redacted] The witness was unclear about what these monies were used for by the Appellant, but mentioned solicitor fees, and possibly extra fees associated with the acquisition of the hotel.

19. The [redacted] loan was dated [redacted], with the Appellant itself named as the borrower. The [redacted] stated that the purpose of the loan was to repay [redacted] The interest rate was 12% per annum, and the loan was secured against the hotel. The loan document stated that the purpose of the loan was to refinance the hotel together with associated professional fees. The witness stated that this loan had not been paid off. He stated that interest was paid by [redacted] from rental income received.

20. The witness stated that the Appellant filed its accounts in 2024, which were prepared by [redacted]. A different accountancy firm had previously acted for the Appellant, and the witness had difficulty accessing the Appellant's documentation from that previous firm. The witness was brought through the Appellant's financial statements, and it was noted that the financial statements stated that the Appellant owed liabilities to its parent company, which the witness stated was the interest.

21. On cross examination, the [redacted], [redacted].

22. The witness was asked about the tax recalculation submitted on behalf of the Appellant in the context of the appeal, including differences between the new recalculation and the earlier tax returns and financial statements. He stated that he did not know if the Appellant returned value-added tax ("VAT") payments to the Respondent, and it was put to him that no VAT returns were filed in 2017 and 2018. He stated that a claim of €433,971 for "*repairs etc.*" on the CT return for 2018 was a mistake, and that it included interest.

23. The witness stated that he gave his new accountant the figures for her to prepare the tax recalculation. He seemed unsure whether the loss for 2018 claimed in the Appellant's financial statement (€205,000) or the tax recalculation (€145,000) was correct, but ultimately stated that he believed the figure in the financial statement was correct. He stated that he spent a lot of time with his previous accountant in 2020 going through the

accounts for 2018 and 2019, and that the recalculation for 2018 performed by the new accountant was wrong.

24. He was asked why the Appellant's financial statements for 2019 showed a profit of €525,848, whereas the tax return for that year stated that it had a loss of €525,848. He stated that the Appellant did not make a profit in 2019, and that he had relied on his then accountants. He stated that he believed the loss as set out on the recalculation (€128,000) was too low and incorrect.

25. He was asked why the financial statements for 2020 showed a loss but the CT return showed a profit. He believed it had something to do with an attempt to refinance with [redacted]. He said he trusted his first set of accountants and relied on them, but was not so sure about [redacted]. He thought the CT return was incorrect to show a profit for 2020. He thought the figure for rental income on the CT return (€154,000) was correct and the figure as stated on the recalculation (€194,000) was wrong. He did not know why the CT return had a figure of €473,217 for "*repairs etc*." He thought the loss for the year was as stated on the recalculation (€112,772) rather than on the CT return (€319,189).

26. The witness stated that [redacted] left the hotel in January or February 2021, and was replaced by [redacted] was meant to pay rent of €10,000 per week but the witness stated that it never did. He stated that he was aware that it received employee support payments during Covid. He was asked whether he was aware that it claimed a rental cost of €226,666 on its CT return. He stated that it should have paid the rent but did not, and that it was a bad debt from the Appellant's point of view. He stated that [redacted] went into liquidation in [redacted].

27. He was asked why the Appellant did not recognise the rental income from [redacted] in its 2021 accounts, when the tenant had claimed the rent as an expense in its own accounts. He accepted that the same amount of money was treated in different ways by two companies [redacted], and that the treatment was inconsistent.

28. He stated that he believed the loss claimed in the Appellant's CT return for 2021 (€280,166) was correct, and the loss subsequently stated in the tax recalculation (€337,202) was overstated. He subsequently was of the view that neither figure was correct, and that the right amount was somewhere in between the two figures provided.

29. Regarding 2022, the witness stated that the Appellant began receiving rental income from [redacted] in May 2022. He agreed that the CT return had incorrectly stated that the Appellant had no rental income for that year. He thought that the expense amount of

€343,602 for "*repairs etc.*" referred to interest. He stated that the figures in the CT return were wrong, and the loss stated in the financial statements of €118,330 was correct. The tax recalculation stated that the Appellant incurred a loss of €528,969, which the witness stated was wrong. He subsequently stated that he thought the loss for the year was around €280,000 and that therefore the loss figures provided in the CT return, financial statements and tax recalculation were all incorrect.

30. The witness was then asked about bank statements. He stated that the Appellant's rental income was deposited into the [redacted] account, because the Appellant did not have its own bank account. The parent company had a bank account that was used to repay the [redacted] loan. The Appellant's rental income was collected by [redacted]. The witness was asked to look at a spreadsheet that the Appellant stated was prepared by [redacted], showing payments into and out of the Appellant. He stated that either he or another named individual instructed [redacted] to transfer monies to [redacted]

31. The spreadsheet stated that a total of €911,190 (inclusive of VAT) was collected on behalf of the Appellant between March 2017 and January 2021. The witness stated that a transfer of €183,645 in [redacted] 2021 to "[redacted] *Escrow Account*" was to his solicitor and was monies from the winding up of [redacted] He stated that this sum was not belonging to the Appellant and was subsequently repaid to [redacted] although the Commissioner found his explanation for this to be unclear. He stated that this money was not paid to [redacted]

32. The witness said that all of the money received from [redacted] went to pay the [redacted] loan (except the sum discussed above that went to the escrow account). He said that he tried to open a bank account for the Appellant but the bank did not agree to it, because it had previously been in receivership. He stated that the Appellant had a bank account in 2016 but did not use it.

33. The witness was asked about bank statements for the parent company. He stated that he was a signatory on the account, together with the trustee company. He stated that there were transfers to another group company from which the parent company had borrowed money. There were also a number of substantial cash withdrawals[3] by the witness. He stated that all of the monies withdrawn were paid back to the company. He stated that the cash withdrawals went to other company accounts and to properties that

[3] For example, 17/07/2017: €4950; 18/07/2017: €4950; 19/07/2017: €4500, €4950, €12500, €4500; 20/07/2017: €1205.27

it owned. He stated that he did not perform these transfers by EFT because he did not have internet banking. He said that he did not withdraw the monies for his own purpose.

34. The witness was asked about the loans that the Appellant claimed to have taken out. Regarding the loan with the parent company, he stated that the loan documentation had the wrong borrower name ( ) and the wrong loan amount (€3.2m rather than €2.6m). He agreed that the loan document stated that it required a drawdown request. The drawdown request form at Schedule 1 to the loan also had the wrong name for the Appellant ( ). The witness stated that a drawdown request was not sent by him to the parent company, though it was possible that the Appellant's solicitor had arranged it.

35. Regarding the loan, he agreed that the loan documentation stated that a drawdown notice had to be provided. He did not know how much of this loan (€4.6m in total) was borrowed by the Appellant, because they were all group companies.

36. The final loan was the loan, which was €4m. The witness suggested that improvements had been carried out to the hotel, which may have been paid for from the proceeds of the loan, but counsel for the Respondent stated that the Respondent had not seen any evidence to that effect. The witness stated that the Appellant paid €480,000 interest for the first year of the loan, and that it did not make the next interest payment that was due in December 2022. The witness said that the monies received from went straight to to repay that loan.

37. The witness was asked about . . He stated that the bar and restaurant paid rent of €3,000 per week.

– *Accountant retained on behalf of the Appellant*

38. The witness stated that she was chartered accountant. She stated that she was retained by in February 2025, and had not had any involvement with the Appellant or other group companies before that. She carried out a "reconciliation" of the Appellant's figures, which involved a recalculation of its tax position for the years under appeal.

39. She stated that she had access to legal documents like rental agreements, loan documentation and lease agreements, as well as bank statements, rent collection

statements (from [redacted]) and statements of loan interest (from [redacted] She also had the financial statements previously prepared for the Appellant, as well as the assessments under appeal.

40. The witness stated that she believed the Appellant received rental income of €182,000 for 2017, 2018 and 2019, which she took from the rent collection statements. She stated that the income received went into the parent company's bank account. Interest was paid to [redacted] from the parent company's account. She calculated that the loan interest paid by the Appellant to [redacted] (via the parent company) was €216,125 for 2017, and €247,000 for each of the remaining years. This was on the basis that the parent company provided a loan of €2.6m to the Appellant at a 9.5% interest rate. She accepted that she had not seen bank statements showing the loan money being transferred from the parent company to the Appellant.

41. She stated that *"[the Appellant] never paid the interest to the [parent company]."* She said that the rents received by the Appellant were paid to [redacted] so that the Appellant indirectly paid the interest. The Appellant's financial statements for 2017 stated that it owed interest of €245,963 to group companies. The witness believed that this was from the [redacted] loan and the [redacted] loan together. She thought the correct figure should be €216,125 + €27,534. She stated that the [redacted] loan was to pay off purchase-related expenses. There was no loan agreement for the Appellant in respect of that loan, so she apportioned it pro rata. She also included administrative costs of €34,333 but stated that she was not provided with supporting documentation by the Appellant's previous accountants.

42. She took a similar approach for 2018, 2019 and 2020. Each year showed a loss after interest. She differed with some of the figures in the Appellant's financial statements. She stated that the 2019 financial statements showed a profit, due to a property revaluation. She believed this was incorrect and stated that her recalculation "*purely considered the rental income"*. For 2020, the rental income was stated to be €194,805, which she seemed to state came from the monies from the liquidation of [redacted] However, she went on to say that she believed the Appellant got no monies from the liquidation, which were instead transferred to its solicitor's escrow account.

43. The witness stated that the Appellant received no rental income in 2021. In December 2021, the [redacted] loan commenced. She calculated that the Appellant paid €40,000 interest on that loan in 2021, and €480,000 in 2022. She stated that the interest was deducted in advance. She said she continued to include interest payments to the [redacted] loan for 2021 and 2022 because there was no document to state that the loan was cancelled or

redeemed. For 2022, rental income was stated to be €361,669, arising from the lease with [redacted]

44. On cross examination, the witness stated that she was retained to reconcile transactions across the [redacted]. She agreed that the Appellant did not appear to have filed VAT returns on time. She said she believed there were errors in all of the Appellant's tax returns under all tax heads.

45. She stated that she did not have any contact with [redacted] and got the statement of rental payments from [redacted] He gave her access to a shared drive [redacted] She agreed that the bank account for the parent company which showed monies coming in and going out to (*inter alia*) [redacted] started in July 2018. She stated that she understood that [redacted] were collecting rent for more than the Appellant within the wider group. She stated that "*Unfortunately we cannot tell, you know really a hundred percent that this rent is really to* [sic] *the company* [i.e. the Appellant]." She accepted that it was possible that rental payments that she had ascribed to the Appellant could have been from another company. She stated that she examined the bank statements for payments that corresponded to the [redacted] statement.

46. She stated that she never saw an interest statement, receipt or invoice issued by the parent company to the Appellant. She never saw a drawdown notification in respect of the loan between the parent company and the Appellant, and the only document she saw in respect of that loan was the facility agreement. She stated that there were interest payments to [redacted] that she could not match to the Appellant and had not included those in her reconciliation.

47. The witness said that there were a lot of transactions visible in the various group companies between [redacted]s accounts and the solicitor's escrow account, "*maybe pay for the loan or maybe for the funding to purchase property*". She agreed there were differences for every year between her reconciliation and the CT returns filed on behalf of the Appellant. She stated that she did not have a detailed discussion about the reconciliation with [redacted] before he gave his evidence in the appeal.

48. Where the Appellant had submitted abridged profit and loss accounts, she stated that she had not seen fuller financial statements. She said she asked the previous accountants for more information but they ignored her. For 2021, she stated that she did not see any lease between the Appellant and another group company in respect of the hotel.

49. She stated that [redacted] only transferred €3.5 million to the Appellant, and that [redacted] topped this up by €500,000 in order to repay [redacted] She agreed that the Appellant's

financial statements for 2022 stated that it owed €3,833,171 "*to group undertakings*", but that [redacted] was not a group undertaking. She agreed that it was a major error in the financial statements to omit the liability to the Appellant in respect of the [redacted] loan. She stated that she could not explain the error.

50. The witness stated that her figures for administrative expenses were taken from information on the Appellant's trial balance, but she did not see any supporting documentation. She did not have a trial balance for every year under appeal, "*just a few*". She stated that she saw no evidence of payments by the Appellant in respect of the [redacted] loan, and that as far as she knew all of the principal and interest was still outstanding. She stated that she did not treat the payment from the liquidator as income because [redacted] explained to him that the Appellant did not receive the money, but it was returned to the liquidator. She confirmed that she never saw a bank account for the Appellant.

51. She stated that she stood over the reconciliation she had prepared. She believed there were significant errors in the Appellant's financial statements, and that there were similar errors in the financial statements of the other [redacted] companies in the group. She confirmed that she did not see any bank statements relating to the Appellant, other than the two accounts submitted by the Appellant in the name of the parent company. She confirmed that she did not see evidence of interest payments by the Appellant to the parent company. She also saw no evidence of interest payments by the Appellant for the [redacted] loan. She did see evidence of interest payments on the [redacted] loan.

52. On re-examination, the witness agreed that the [redacted] statement showed that the loan had been paid off. She could correlate over 60% of the payments to the [redacted] account with transactions set out in the parent company bank accounts.

Submissions

Appellant

53. In opening submissions, counsel for the Appellant stated that the Appellant obtained a loan for the purchase of the hotel from the parent company. The loan was for €2.6 million, and interest was 9.5% per annum. This gave rise to a loss (€247,000) which covered the rental income (€182,000).

54. There was also a second loan taken out from [redacted] for the purposes of acquisition costs, which was taken out by a number of group companies and apportioned to, *inter alia*, the Appellant. The interest incurred by the Appellant was €47,000 per annum.

55. The loan from the parent company was refinanced in [redacted] by way of the [redacted] loan, for €4 million, with interest at 12% per annum. The interest payments on the loans were paid by the group of companies and charged back to the Appellant, and appeared as liabilities on the financial statements.

56. It was also the Appellant's case that while the lease agreement with [redacted] stated that it would pay €10,000 per week, it only paid €3,500 per week. Furthermore, the Appellant did not receive any rental income in 2021.

57. In closing submissions, counsel stated that there were two issues: firstly, the amount of rental income received by the Appellant, and secondly, whether the Appellant was entitled to the deduction for interest pursuant to section 97(2)(e) of the TCA 1997. The Appellant had to prove either that the interest was discharged or that it was entitled to an accrual, although counsel accepted that the latter argument was "*not the strongest point".*

58. Regarding the rental income, the evidence showed that the Appellant received €3,500 per week. [redacted] oral evidence was supported by the petition to the High Court to wind up [redacted] Furthermore, there was no rental income received from May/June 2020 until 2022, when [redacted] took over the lease. The evidence of [redacted] and [redacted] was that the monies received on foot of the liquidation of [redacted] were paid to the Appellant's solicitor and not received by it.

59. Regarding the interest, it was accepted that there were issues regarding the Appellant's financial statements and tax returns. It was also accepted that there was not direct evidence of interest payments, but when the matter was looked at in the round, the pieces of the jigsaw could be put together. There was the loan document, which reflected the interest. There was the purchase of the hotel. [redacted] had calculated the amount of interest due on the loan for the purchase of the hotel. The [redacted] statement showed that the loan was paid off. The parent company's bank accounts showed payments in of rent, and payments out to [redacted] So it could be inferred that the interest on the loan was discharged by the Appellant. The sequence of payments to [redacted] somewhat aligned with the receipt of rental income, and it was not a "*quantum leap*" to conclude that it was the monies from the Appellant that discharged the interest.

60. Alternatively, the financial statements showed interest accruals. If the interest had not been discharged, it was still an expense to the Appellant because it was still owed to the other group companies.

61. Furthermore, the Appellant took out the [redacted] loan and there was evidence of an interest payment of €480,000 in 2022. On the balance of probabilities, it could be found that the

Appellant had discharged the interest on the [redacted] loan, and had also discharged interest on the [redacted] loan. It was accepted that there was not the evidence to demonstrate that the Appellant had discharged the interest on the [redacted] loan.

Respondent

62. Senior Counsel for the Respondent stated that there were a lot of holes in the Appellant's case. There had been non-disclosure of bank accounts that had resulted in difficulty tracing the alleged payments. There were gaps in the loan documentation as well. As a result, the Respondent did not accept that the Appellant had paid the interest it claimed to have paid.

63. In closing submissions, counsel stated that it was necessary to leave aside the additional expenses claimed in [redacted] recalculation, as they had not been substantiated. Regarding the interest deduction claimed, the issue was whether or not the Appellant had discharged interest on monies borrowed to purchase the hotel. It was accepted that [redacted] made a loan to the parent company. But there was not sufficient evidence to show that the parent company made a loan to the Appellant.

64. The facility agreement between the parent company and the Appellant stated that drawdown required that the Appellant serve a drawdown request on the parent company. There was no evidence that any such request had been served. Nor were any interest statements or loan statements provided. Therefore, there was no documentary evidence that the loan was ever actually made.

65. [redacted] collected rent on behalf of the Appellant, but also collected rents for other group companies and made transfers into the parent company account, so it was not clearly the case that monies paid out of the parent company account to discharge the [redacted] loan came from the Appellant. But even if it was the case, it did not prove that the Appellant had taken out a loan from the parent company. If it was found that the Appellant did not take out a loan from the parent company, then the [redacted] loan also fell away for the purposes of the appeal because there was no earlier loan to refinance.

66. Similarly, the [redacted] facility agreement stated that a drawdown request was required, but there was no evidence of any such request having been made by the Appellant. There was no evidence of any activation of the loan facility. Regarding the Appellant's argument that it was entitled to a deduction of interest on an accruals basis, the Respondent did allow for accrued interest to be deducted in certain circumstances, where a taxpayer was paying interest but there was a mismatch between the amount paid and the amount accrued. However, that was ultimately where the amount paid and the amount accrued

would match up. In this appeal, the Appellant had paid no interest so was not entitled to claim a deduction.

67. It was clear that the Appellant's own records were extremely unreliable. It had put forward up to three sets of figures and yet there was no agreement between [redacted] and [redacted] as to what the correct figures were. Even if the existence of the loans was not at issue, it would not be possible on the basis of the Appellant's records to determine the correct amount of loss incurred by it. However, on the basis of [redacted] figures, it was clear that the loss claim was overstated.

68. It was also clear that [redacted] had taken large amounts out of the parent company account in cash. He had been unable to explain what he had used those withdrawals for, and was unable to provide any trail for where the monies went. Furthermore, the Appellant claimed it received no rent in 2021. However, during that year [redacted] was the lessee, and had claimed Covid wage supports. [redacted] accepted that the lessee had claimed a tax deduction for rent on an actual basis, so there was a mismatch between that claimed deduction and the claim by the Appellant that it received no rent.

69. The Appellant claimed that the money received from the liquidator of [redacted] was not rent. But this did not explain why it was paid to [redacted], rather than directly to the Appellant or its solicitors. If it was to be disregarded as rent, it was necessary to know in what capacity [redacted] paid to the solicitor's escrow account. But the situation was unclear and unsatisfactory.

Material Facts

70. Having read the documentation submitted, and having listened to the evidence and submissions of the parties at the hearing, the Commissioner makes the following findings of material fact:

    70.1. The Appellant company was incorporated on [redacted]. [redacted]

    70.2. On [redacted], the Appellant entered into an agreement to purchase [redacted] ("the hotel"). The purchase price was €2.6 million. The Appellant submitted a document which it stated was a statement of outlays arising from the purchase. This document stated that the purchaser was [redacted]

70.3. The parent company of the Appellant is [redacted] ("the parent company"), [redacted] the parent company entered into a facility agreement with [redacted] for a loan in the amount of €8.75 million [redacted] The purpose of the loan was stated to be "*on-lending to each of the Corporate Guarantors for the purposes of assisting in financing the cost of acquisition or the cost of refinancing, as the case may be, by each of the Corporate Guarantors of the Properties set opposite their names in Part 3 of Schedule 1*." The Appellant was listed as one of the Corporate Guarantors, and the hotel was set opposite its name in Part 3 of Schedule 1. Interest was stated to be 9.5% per annum.

70.4. On [redacted], the Appellant entered into an intra-group facility agreement with the parent company in the amount of €2.6 million ("the parent company loan"). The agreement was stated to be made on foot of the [redacted] loan. However, while the Appellant's name was named on the cover sheet, on page 1 the borrower was named as [redacted]. The agreement stated that its purpose was to enable the borrower to purchase the hotel. It was stated to be made pursuant to the [redacted] loan. The agreement was signed by [redacted] on behalf of both parties.

70.5. The parent company facility agreement provided, at clause 5, that the facility amount could be drawn down by the borrower serving a drawdown request on the lender not less than 5 business days prior to the draw down date. This notice period could be waived by the lender. Schedule 1 to the agreement provided the form for a drawdown request. It stated that the borrower was [redacted] (*sic*).

70.6. No evidence that the Appellant ever served a drawdown request on the parent company, in line with the facility agreement, was put before the Commissioner.

70.7. On [redacted] entered into a facility agreement with a number of group company borrowers, including the Appellant. [redacted] The facility agreement provided that the "*total commitment*" was €4.31 million. Clause 4.2 provided that a borrower could request a loan by serving a drawdown request on the lender, who would then notify the other borrowers. No evidence was put before the Commissioner that the Appellant ever served a drawdown notice on the lender, or indeed that any other of the borrowers served a drawdown notice.

70.8. On [redacted] the Appellant entered into a loan agreement with [redacted]. The loan amount was stated to be €4 million. The purpose was stated to be to refinance the hotel. The interest rate was 1% per month, and provided that one year's interest (€480,000) was to be paid upfront, on the day the loan was provided to the Appellant.

70.9. The Appellant did not have its own bank account during the years under appeal (2017 – 2022). It used the bank accounts of the parent company and/or another group company, [redacted]

70.10. When the Appellant purchased the hotel, the hotel already had a lessee, [redacted] The lease agreement provided that [redacted] was to pay rent of €10,000 per month. However, the Appellant stated that it paid €3,500 per month during 2017, 2018 and 2019. It stated that [redacted] stopped paying rent around May/June 2020, and that it received no rent until it entered into a lease agreement with [redacted] in May 2022.

70.11. The Appellant did not provide an adequate explanation as to why monies received from the liquidation of [redacted] were not treated as rental income belonging to the Appellant. Nor did it properly explain why it claimed to have no rental income in 2021, in circumstances were a new lessee, [redacted] held a lease between those held by [redacted] and [redacted] and where [redacted] had claimed a deduction on its CT return for rental payments and had also claimed Covid wage supports.

70.12. The rent was collected by a third party called [redacted]. Rental income was lodged to the parent company's bank accounts. [redacted] also collected rents on behalf of other group companies. In the copy bank accounts provided to the Commissioner, only one lodgement (03/02/2017 - €11,353) was stated to be from rent payments relating to the hotel. The other lodgements were simply stated to be [redacted]" and therefore it was not possible to say whether or not they were for rental payments arising to the Appellant.

70.13. There were also payments from the parent company's bank accounts to [redacted] to discharge the [redacted] loan. The [redacted] loan was discharged by the parent company in January 2022. However, due to the intermingling of funds from the various group companies, as well as the total lack of clear and reliable financial statements and supporting documentation for the Appellant, it was not possible to say how much, if any, of the rental payments received by the Appellant were subsequently used to discharge the [redacted] loan (principal and/or interest).

70.14. Furthermore, given the lack of reliable financial statements and any bank account statements for the Appellant, it was not possible to accurately determine the income of the Appellant for any of the years under appeal.

70.15. All of the Appellant's corporation tax ("CT") returns for 2017 to 2022 were submitted late. For 2017, it calculated a loss of €98,296. On 31 May 2024, the Respondent issued an amended assessment to CT for 2017 in the amount of €45,045 (€40,950 + surcharge).

70.16. For 2018, the Appellant calculated a loss on its CT return of €205,806. On 31 May 2024, the Respondent issued an amended assessment to CT for 2018 in the amount of €56,470 (€51,337 + surcharge).

70.17. For 2019, the Appellant calculated a loss on its CT return of €525,848. On 31 May 2024, the Respondent issued an amended assessment to CT for 2019 in the amount of €56,832.05 (€51,665 + surcharge).

70.18. For 2020, the Appellant calculated a profit on its CT return of €185,189, but carried forward claimed losses to state that it had zero profit assessable. On 31 May 2024, the Respondent issued an amended assessment to CT for 2020 in the amount of €57,192.85 (€51,993 + surcharge).

70.19. For 2021, the Appellant claimed a nil liability to CT on its return. On 31 May 2024, the Respondent issued an amended assessment to CT for 2021 in the amount of €57,553.65 (€52,321.50 + surcharge).

70.20. For 2022, the Appellant claimed a nil liability to CT on its return. On 31 May 2024, the Respondent issued an amended assessment to CT for 2022 in the amount of €147,427.50 (€134,025 + surcharge).

70.21. On 25 June 2024, the Appellant appealed against the amended assessments to the Commission.

70.22. In February 2025, [redacted] retained a new accountant, [redacted] to carry out a reconciliation of the Appellant's accounts, as well as other group company accounts. [redacted] had not prepared the Appellant's CT returns or its financial statements.

70.23. [redacted] reconciliation for the Appellant showed as follows:

Recalculation							Per FS figures		Per Tax Appeal figures	
Year	Rental income (Actual)	Loan interest - [redacted] A01	Loan interest - [redacted] allocated acquisition costs	Loan interest - [redacted] A03	Other Expenses	Loss T	Loss/Gain	Diff	Loss	Diff
2017	182,000	-216,125	-27,534	0	-34,333	-95,992	-98,296	2,304	-98,296	2,304
2018	182,000	-247,000	-47,202	0	-32,814	-145,016	-205,806	60,790	-205,806	60,790
2019	182,000	-247,000	-47,202	0	-16,486	-128,688	525,848	-654,536	-168,682	39,994
2020	194,805	-247,000	-47,202	0	-13,375	-112,772	-185,189	72,417	-319,189	206,417
2021	0	-247,000	-47,202	-40,000	-3,000	-337,202	-280,166	-57,036	-280,166	-57,036
2022	361,669	-247,000	-47,202	-480,000	-116,436	-528,969	-118,330	-410,639	-343,602	-185,367
	1,102,474	-1,451,125	-263,543	-520,000	-216,444	-1,348,638	-361,939	-986,699	-1,415,741	67,103
	T	T	T	T	T	T	T	T	T	T

70.24 In his evidence, [redacted] disagreed with the figures produced by [redacted] for 2018, 2019, 2021 and 2022. Consequently, the Appellant had not submitted an agreed set of financial statements/accounts for the years under appeal. Its tax returns, financial statements and subsequent reconciliation were mutually inconsistent and totally unreliable.

Analysis

71. The burden of proof rests on the Appellant to show that the amended assessments raised by the Respondent against it were incorrect. In the High Court case of *Menolly Homes Ltd v. Appeal Commissioners* [2010] IEHC 49 ("*Menolly Homes*"), Charleton J stated at paragraph 22 that "*The burden of proof in this appeal process is, as in all taxation appeals, on the taxpayer. This is not a plenary civil hearing. It is an enquiry by the Appeal Commissioners as to whether the taxpayer has shown that the relevant tax is not payable.*"

72. Having considered the evidence submitted at the hearing, both documentary and oral, on behalf of the Appellant, and having considered the submissions of counsel for the Appellant and the Respondent, the Commissioner is satisfied that the Appellant has failed to demonstrate that the assessments are incorrect. The Commissioner is so satisfied on three separate (albeit related) bases, which will be dealt with in turn.

The evidence submitted by the Appellant

73. The Commissioner has already briefly set out, in the "Background" section above, the unsatisfactory manner in which the Appellant approached this appeal. However, notwithstanding the repeated opportunities afforded to the Appellant to put forward evidence in support of its appeal, and indeed notwithstanding the large amount of documentation ultimately submitted by it, the Commissioner has concluded that there continues to exist very substantial gaps in the Appellant's evidence, such that it would be simply impossible for him to find that it has satisfied the burden of proof upon it.

74. It was fairly accepted by counsel for the Appellant that there were "*issues*" in respect of the Appellant's financial statements and the CT returns. Firstly, it is important to note that there were a number of discrepancies between the Appellant's financial statements and its CT returns. The Commissioner does not propose to consider these in detail, as he is ultimately of the view that the Appellant's financial statements are wholly unreliable and of no assistance to him. However, in one (particularly egregious) example, the Appellant's 2019 CT return showed a loss before tax of €525,848, whereas its financial statements stated that the company had a profit in the same amount. The overall discrepancies between the financial statements and CT returns can be seen by having regard to the two columns named "Per FS figures" and "Per tax appeal figures" in the reconciliation prepared by [redacted], as set out at paragraph 70.23 above.

75. No satisfactory explanation for these discrepancies was put before the Commissioner. In his evidence, [redacted] stated that he trusted the first set of accountants ([redacted]) but was not so sure about the second set ([redacted]). No evidence was heard from either accountants, and [redacted] stated that neither had responded to her requests for documentation.

76. The Appellant sought to clarify the confusion by instructing [redacted] to carry out a reconciliation of its accounts. [redacted] stated that she had also been instructed to reconcile transactions across [redacted]. It is not a criticism of [redacted] to state that, unfortunately for the Appellant, her reconciliation only created further confusion. This is because the Appellant's [redacted], disagreed with a number of her findings, including her recalculations for 2018, 2019, 2021 and 2022; i.e. four of the six years under appeal.

77. Therefore, the Commissioner is left with a position where the Appellant has been unable to submit a clear, consistent and agreed set of figures in its own appeal, never mind that its figures were not agreed with the Respondent. Given the lack of consistent, reliable figures to support its appeal, the Commissioner is of the view that it would be simply impossible for him to find that the Appellant had met the burden of proof. The Commissioner cannot have any reliance on the tax figures submitted by or on behalf of the Appellant, given the numerous inconsistencies and contradictions between its financial statements, tax returns and subsequent reconciliation exercise.

78. This is particularly problematic when it comes to considering the Appellant's income for the years under appeal. The Commissioner considers that there was evidence to show that the Appellant received €182,000 in rental income from [redacted] for each of 2017, 2018 and 2019, as stated in the document purporting to be from [redacted] and

supported in the winding up petition to the High Court. This is more than the amount assessed by the Respondent for 2017 (€163,800), and less than the assessments for 2018 (€205,348) and 2019 (€206,662).

79. However, the Commissioner cannot determine that this was the only income received by the Appellant in those years, given the lack of bank account statements in the Appellant's name. It is impossible to state with any certainty what lodgements to the parent company's bank accounts came from the Appellant versus other group companies. The Commissioner is also conscious that the hotel had a bar and restaurant, and what income arose to the Appellant from them was very unclear.

80. Furthermore, the Appellant's income for 2020 to 2022 was not adequately explained. The Appellant claimed that [redacted] stopped paying rent in mid-2020, and that it received no rental income until [redacted] assumed the lease in mid-2022. However, the Appellant received €183,645 on the liquidation of [redacted] in [redacted] 2021. It claimed that these monies went straight to its solicitor's escrow account and should not be treated as income. However, no proper explanation as to why this occurred, and why it should not be treated as income in the hands of the Appellant, was provided. The Commissioner notes further that the monies were collected by [redacted], which collected rent on behalf of the Appellant and which further suggests that this was rental income.

81. Additionally, the Appellant did not provide an adequate explanation as to what rent, if any, it received from [redacted] which assumed the lease between [redacted] and [redacted] In particular, the Commissioner notes that [redacted] could not explain why [redacted] claimed a tax deduction for rent payments and why it claimed Covid support payments, if it could not pay any rent to the Appellant. Finally, [redacted] the Commissioner considers that they create further uncertainty regarding the true level of income earned by the Appellant.

82. Having regard to the above considerations, the Commissioner agrees with Senior Counsel for the Respondent's description of the Appellant's own records as "*chaotic*". Consequently, he is satisfied that, on this basis alone, it has failed to demonstrate that the amended assessments are incorrect and should be reduced.

Whether the Appellant took out qualifying loan(s) under section 97(2)(e)

83. Section 97(1) of the TCA 1997 sets out the computational rules for calculating the profit or gains on rental income. Section 97(2)(e) allows for a deduction for "*interest on borrowed money employed in the purchase, improvement or repair of the premises*." The Appellant seeks to rely on this provision to reduce the amended assessments to zero, on the basis that the interest on loan(s) taken out by it to acquire the hotel exceeded its rental income.

84. The Appellant stated that its primary argument was that interest on the loan it took out from its parent company, on foot of the parent company's loan from [redacted] exceeded its rental income and was therefore sufficient, in itself, to show that it did not have a CT liability for the years under review. The amounts claimed by the Appellant are set out in the third column of [redacted] reconciliation, at paragraph 70.23.

85. It was not in dispute that the parent company took out a loan from [redacted] On [redacted], the parent company entered into a facility agreement with [redacted] for a loan in the amount of €8.75 million. The purpose of the loan was stated to be "*on-lending to each of the Corporate Guarantors for the purposes of assisting in financing the cost of acquisition or the cost of refinancing, as the case may be, by each of the Corporate Guarantors of the Properties set opposite their names in Part 3 of Schedule 1*." The Appellant was listed as one of the Corporate Guarantors, and the hotel was set opposite its name in Part 3 of Schedule 1.

86. On [redacted], the Appellant entered into an intra-group facility agreement with the parent company in the amount of €2.6 million. The agreement stated that it was made on foot of the [redacted] loan. [redacted] confirmed that she saw no other document relating to this loan other than the facility agreement. She stated that she calculated the interest rate 9.5%, based on the interest rate on the parent company loan.

87. The Respondent did not accept that any loan was ultimately issued to the Appellant by the parent company on foot of the [redacted] facility agreement. The Commissioner considers that there are a number of issues regarding this loan (or purported loan). Firstly, while the cover sheet of the facility agreement names the Appellant, the borrower is named as [redacted], another group company. [redacted] stated that this was a mistake, and indeed the agreement execution page names the Appellant as borrower. However, the Commissioner notes that this error (if that was what it was) is replicated on a statement of account regarding the purchase of the hotel[4], where the

[4] Document 2.5 of the Appellant's Book of Documents

purchaser is named as [redacted]. Furthermore, Schedule 1 to the agreement incorrectly stated that the borrower was "[redacted]". The Commissioner considers that these errors demonstrate, at the very least, the unacceptable sloppiness of the documentation and record keeping of the Appellant and other group companies.

88. However, a more significant difficulty for the Appellant is the requirement at clause 5 of the facility agreement, that the facility amount could be drawn down by the borrower serving a drawdown request on the lender not less than 5 business days prior to the draw down date. This notice period could be waived by the lender. Schedule 1 to the agreement provided the form for a drawdown request.

89. No copy of any drawdown request was submitted to the Commissioner. [redacted] stated that she had not seen one. [redacted] stated that he had not sent one on behalf of the Appellant, but that it was possible that its solicitor had done so. No other documentation evidencing the existence of the parent company loan, such as a statement of account or interest certificate, was provided. Given that the Appellant did not have a bank account, it could not point to the loan monies being deposited into one. Nor did it point to the funds being deposited into any other bank account, such as those belonging to the parent company.

90. Consequently, the Commissioner cannot be satisfied that the Appellant ever actually took out the parent company loan. Given the contract of sale for the hotel[5], the Commissioner is satisfied that the Appellant purchased the hotel. It seems likely that it was provided with funds to do so, perhaps by the parent company, or by another group company, or by [redacted] directly; given the chaotic nature of the Appellant's record keeping, it is simply not possible to say. However, the only document purporting to show monies being lent to the Appellant on foot of the [redacted] loan is the facility agreement for the parent company loan. Given the failure to evidence any drawdown in accordance with that facility agreement, the Commissioner cannot find that the Appellant has demonstrated that it ever received monies from the parent company loan.

91. As a result, the Commissioner agrees with the Respondent that the Appellant cannot seek to rely on interest payments on the parent company loan (whether actually paid or on an accrual basis) to reduce its rental income for the purposes of its CT returns. The Commissioner further agrees with the Respondent that this necessarily means that the [redacted] loan does not qualify under section 97(2)(e).

[5] Document 2.8 of the Appellant's Book of Documents

92. It is not in dispute that the Appellant took out a loan from [redacted]. On [redacted], the Appellant entered into a loan agreement with [redacted]. The loan amount was stated to be €4 million. The interest rate was 1% per month, and provided that one year's interest (€480,000) was to be paid upfront, on the day the loan was provided to the Appellant.

93. The purpose of the [redacted] loan was stated to be "*to refinance the Subject Property [i.e. the hotel] together with associated professional fees…*" However, as stated above, interest payments only qualify for deduction under section 97(2)(e) for borrowed money "*employed in the purchase, improvement or repair of the premises*". While [redacted] stated that the [redacted] loan might have been used for the improvement of the hotel, no evidence of any such improvements was put before the Commissioner. Therefore, in order to qualify, the [redacted] loan had to be for the purchase of the hotel. However, as the Commissioner has not been able to identify any loan for the purchase of the hotel, he cannot find that the [redacted] loan was used to refinance such a purchase loan. Therefore, interest payments under the [redacted] loan cannot be deducted from rental income pursuant to section 97(2)(e).

94. Finally, the Appellant had also sought to rely on the [redacted] loan, i.e. the facility agreement between a number of group companies, including the Appellant, as borrowers, and [redacted]. In his closing submissions, counsel for the Appellant accepted that there was no evidence to show that the Appellant discharged any interest payments on the [redacted] loan.

95. The Commissioner further considers that there is no evidence to show that the Appellant ever drew down funds on this facility agreement, or indeed that any of the other borrowers did. Similarly to the parent company loan, the [redacted] facility agreement required the issuance of a drawdown request in order to receive funds. No evidence of any drawdown request, whether from the Appellant or any other borrower, was provided to the Commissioner. No other evidence of any monies being issued to the Appellant under the [redacted] loan was submitted. [redacted] stated that she saw no evidence of any payments by the Appellant in respect of this loan. In all the circumstances, the Commissioner is satisfied that the Appellant has not shown that it received any funds under the [redacted] loan, and therefore it is not entitled to claim a deduction for any interest payments in respect of it.

Whether the Appellant paid interest on the parent company loan

96. Even if the Commissioner could find that the Appellant had taken out the parent company loan, he is satisfied that the evidence before him is not sufficient to enable him to determine that the Appellant had actually discharged interest on the loan. This is due to

the lack of its own bank account, and the intermingling of funds amongst various group companies, so that it is not possible to state with any certainty what monies were paid into the parent company bank accounts by or on behalf of the Appellant, and whether the payment of interest to [redacted] out of the parent company's bank accounts could be attributed to the Appellant.

97. It was accepted by the Respondent that the parent company took out a loan with [redacted] The Commissioner was provided with a statement for the [redacted] loan[6], showing interest payments of approximately €210,000 every three months or so between February 2017 and April 2021. There was a principal payment of €4 million in December 2021 and a further payment of principal (€4.75m) in [redacted] 2022, together with the payment of outstanding interest as well as an exit fee. The account was closed off in [redacted].

98. Therefore, the Commissioner accepts that the parent company repaid the [redacted] loan. In order to try to substantiate the Appellant's claim that it paid interest on its portion of the loan, the Commissioner was shown the statement which purported to demonstrate the collection of rental income by [redacted] on behalf of the Appellant[7], as well as bank account statements for the parent company[8].

99. While the rent account statement was stated to have come from [redacted], it is not on headed paper and its provenance is unclear. The statement has a note beside a number of entries stating "*Transferred to* [redacted] However, there is only one lodgement entry on the parent company's account statement that is clearly stated to come from the Appellant: "*03/02/2017* [redacted] *Jan 17, €11,353*". All of the lodgements highlighted by the Appellant are simply stated to be from [redacted]. However, the evidence at the hearing was that [redacted] collected rents on behalf of other group companies, and therefore the Commissioner cannot have any confidence that these highlighted entries can properly be attributed to the Appellant.

100. Consequently, the Commissioner is unable to conclude that the payments out of the parent company's bank accounts [redacted]" can be attributed, in whole or in part, to the Appellant. This is because of the intermingling of funds from various group companies. [redacted] was cross examined on cash withdrawals made by him from the parent company bank accounts, and it seemed to the Commissioner that he was unable to provide a satisfactory explanation as to why the withdrawals were made, what happened to the funds, and whether they were repaid to the parent company. In all the

[6] Document C.1 of the Appellant's Book of Supplemental Documents
[7] Document F.1 of the Appellant's Book of Documents
[8] Documents C.2 and C.3 of the Appellant's Book of Supplemental Documents

circumstances, the Commissioner cannot have any confidence that payments going in and out of the parent company bank accounts can be attributed to the Appellant.

101. Finally, the Commissioner notes that the Appellant argued that, even if no interest was actually paid, it constituted a charge on its financial statements and therefore could be deducted on an accruals basis, albeit it was conceded by its counsel that this was not a strong argument. Leaving aside the unreliability of its financial statements, the Commissioner notes that no precedent was put forward by the Appellant to justify its contention that it could claim a deduction for interest, even where no interest had been paid. Counsel for the Respondent stated that it does allow deductions on an accruals basis where interest has been paid, but there is a discrepancy in the amount paid versus the amount accrued, where the totals will ultimately balance out. Counsel stated that this was done on a pragmatic basis. In the circumstances, the Commissioner does not consider that the Appellant demonstrated that it would be entitled to a deduction for interest where no interest had been paid by it.

Conclusion

102. Therefore, given (i) the lack of a consistent and reliable set of figures and financial statements submitted on behalf of the Appellant; (ii) the inability to conclude that the Appellant took out loans qualifying for interest deductions under section 97(2)(e) of the TCA 1997; and (iii) the inability to conclude that, even if the parent company loan did qualify, the Appellant ever discharged interest on the loan, the Commissioner concludes that the appeal must fail.

Determination

103. In the circumstances and based on a review of the facts and a consideration of the submissions, material and evidence provided by both parties, the Commissioner is satisfied that the amended assessments to corporation tax for the years 2017 to 2022 inclusive should stand.

104. This Appeal is determined in accordance with Part 40A of the TCA 1997 and in particular section 949AK thereof. This determination contains full findings of fact and reasons for the determination, as required under section 949AJ(6) of the TCA 1997.

Notification

105. This determination complies with the notification requirements set out in section 949AJ of the TCA 1997, in particular section 949AJ(5) and section 949AJ(6) of the TCA 1997. For the avoidance of doubt, the parties are hereby notified of the determination under section

949AJ of the TCA 1997 and in particular the matters as required in section 949AJ(6) of the TCA 1997. This notification under section 949AJ of the TCA 1997 is being sent via digital email communication **only** (unless the Appellant opted for postal communication and communicated that option to the Commission). The parties will not receive any other notification of this determination by any other methods of communication.

Appeal

106. Any party dissatisfied with the determination has a right of appeal on a point or points of law only within 42 days after the date of the notification of this determination in accordance with the provisions set out in section 949AP of the TCA 1997. The Commission has no discretion to accept any request to appeal the determination outside the statutory time limit.

Simon Noone
Appeal Commissioner
30 July 2025